

UNITED STATES BANKRUPTCY COURT FOR THE
EASTERN DISTRICT OF WISCONSIN

IN RE

Chapter: 7

Charles Andrew Hoffkins aka CA Hoffkins and
Suzanna Marie Hoffkins aka Susan Marie Hoffkins
aka Suzanna M. Schultz

Case No. 15-30114-svk

Debtors.

**MOTION OF THE BANK OF NEW YORK MELLON TRUST COMPANY, NATIONAL
ASSOCIATION FKA THE BANK OF NEW YORK TRUST COMPANY, N.A. AS SUCCESSOR
TO JPMORGAN CHASE BANK, AS TRUSTEE FOR RESIDENTIAL ASSET MORTGAGE
PRODUCTS, INC., MORTGAGE ASSET-BACKED PASS-THROUGH CERTIFICATES,
SERIES 2003-RS11 FOR RELIEF FROM THE AUTOMATIC STAY AND ABANDONMENT**

The Bank of New York Mellon Trust Company, National Association fka The Bank of New York Trust Company, N.A. as successor to JPMorgan Chase Bank, as Trustee for Residential Asset Mortgage Products, Inc., Mortgage Asset-Backed Pass-Through Certificates, Series 2003-RS11, the current mortgagee of record, its successors, servicing agents and/or assignees (hereinafter collectively and at all times material hereto "the movant"), through its attorneys, Gray & Associates, L.L.P., hereby moves the court for an order for relief from the automatic stay and abandonment pursuant to sections 362(d) and 554(b) of the Bankruptcy Code and alleges as follows:

1. The movant holds a promissory note and mortgage encumbering real property owned by the debtor(s) and located at 705 Cobb Rd, Elkhorn, WI 53121-9475. A copy of the mortgage and note are attached hereto and their contents are incorporated herein by reference.

2. That the mortgage loan for which the movant has a secured interest is in default for all

Drafted by:

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Gray & Associates, L.L.P. is attempting to collect a debt and any information obtained will be used for that purpose. If you have previously received a discharge in a chapter 7 bankruptcy case, this communication should not be construed as an attempt to hold you personally liable for the debt.

payments coming due on and after August 1, 2015 and, unless cured, said default will result in the subject property being sold at a foreclosure sale.

3. That the default in payments constitutes "cause" for terminating the automatic stay under section 362(d)(1) of the Bankruptcy Code.

4. That failure to make the monthly payments has resulted in the loss of adequate protection of the movant's interest in the encumbered property, thereby entitling the movant to relief from the automatic stay under section 362(d)(1) of the Bankruptcy Code.

5. That the estimated fair market value of the property according to the local assessor's office is \$156,600.00.

6. That as of October 12, 2015, the total amount due the movant was approximately \$138,812.24.

7. That there is no equity in the property over and above the liens of the secured creditors, the exemptions claimed by the debtor(s), unpaid real estate taxes and other liens of record. The lack of equity in the property, which is unnecessary for an effective reorganization, entitles the movant to relief from the automatic stay under section 362(d)(2) of the Bankruptcy Code.

8. The allegations of the foregoing paragraphs indicate that the property is burdensome and of inconsequential value and benefit to the bankruptcy estate. The trustee should be ordered to abandon the estate's interest, if any, in the property pursuant to section 554(b) of the Bankruptcy Code, while reserving the estate's interest in any surplus funds which might exist if the property is sold and the movant has been paid in full.

9. That the movant's legal fees and costs associated with this motion are \$1,036.25.

WHEREFORE, the movant requests that the automatic stay as it pertains to the debtor(s), the estate and the property be terminated pursuant to section 362(d) of the Bankruptcy Code so that the movant may protect, exercise and enforce its rights pursuant to said note and mortgage and that the court enter an order of abandonment regarding the property pursuant to section 554(b) of the Bankruptcy Code, effective upon the trustee's abandonment of the property, the filing of a no asset report or the entry of an

order confirming the sale of the property in any state court foreclosure action, while reserving the estate's interest in any surplus funds which might exist after the movant has been paid in full, that the movant's legal fees and costs associated with this motion be approved, that any order entered pursuant to this motion be effective immediately upon its entry and for such further relief as may be just and equitable.

Dated this 13th day of October, 2015.

Gray & Associates, L.L.P.
Attorneys for Movant

By: /s/ Jay Pitner
Jay Pitner
State Bar No. 1010692

Ocwen Loan Servicing, LLC services the underlying mortgage loan and note for the property referenced in this Motion for Relief for The Bank of New York Mellon Trust Company, National Association fka The Bank of New York Trust Company, N.A. as successor to JPMorgan Chase Bank, as Trustee for Residential Asset Mortgage Products, Inc., Mortgage Asset-Backed Pass-Through Certificates, Series 2003-RS11 (the noteholder) and is entitled to proceed accordingly. Should the Automatic Stay be lifted and/or set aside by Order of this Court or if this case is dismissed or if the debtor obtains a discharge and a foreclosure action is commenced or recommenced, said foreclosure will be conducted in the name of The Bank of New York Mellon Trust Company, National Association fka The Bank of New York Trust Company, N.A. as successor to JPMorgan Chase Bank, as Trustee for Residential Asset Mortgage Products, Inc., Mortgage Asset-Backed Pass-Through Certificates, Series 2003-RS11 (the noteholder) The Bank of New York Mellon Trust Company, National Association fka The Bank of New York Trust Company, N.A. as successor to JPMorgan Chase Bank, as Trustee for Residential Asset Mortgage Products, Inc., Mortgage Asset-Backed Pass-Through Certificates, Series 2003-RS11 (the noteholder) has the right to foreclose because:

- Noteholder is the original mortgagee or beneficiary or assignee of the security instrument for the referenced loan. Noteholder directly or through and agent has possession of the promissory note and the promissory note is either made payable to the Noteholder or has been duly endorsed.

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Debtors.

**NOTICE OF MOTION OF THE BANK OF NEW YORK MELLON TRUST COMPANY,
NATIONAL ASSOCIATION FKA THE BANK OF NEW YORK TRUST COMPANY, N.A. AS
SUCCESSOR TO JPMORGAN CHASE BANK, AS TRUSTEE FOR RESIDENTIAL ASSET
MORTGAGE PRODUCTS, INC., MORTGAGE ASSET-BACKED PASS-THROUGH
CERTIFICATES, SERIES 2003-RS11 FOR RELIEF FROM THE AUTOMATIC STAY AND
ABANDONMENT**

The Bank of New York Mellon Trust Company, National Association fka The Bank of New York Trust Company, N.A. as successor to JPMorgan Chase Bank, as Trustee for Residential Asset Mortgage Products, Inc., Mortgage Asset-Backed Pass-Through Certificates, Series 2003-RS11, the current mortgagee of record, its successors, servicing agents and/or assignees (hereinafter collectively and at all times material hereto "the movant"), has filed papers with the court for an order for relief from the automatic stay and abandonment.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

Drafted by:

Jay Pitner
Gray & Associates, L.L.P.
16345 West Glendale Drive
New Berlin, WI 53151-2841
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If you do not want the court to grant the relief sought in the motion, or if you want the court to consider your views on the motion, **within fourteen (14) days of the date of this notice**, you or your attorney must do the following:

File with the court a written objection to the motion and a request for a hearing with:

Clerk, U.S. Bankruptcy Court
U.S. Courthouse
517 E. Wisconsin Avenue, Room 126
Milwaukee, WI 53202-4500

If you mail your request and objection to the court for filing, you must mail it early enough so the court receives it within 14 days of the date of this notice.

You must also mail copies of the written objection and request for a hearing to:

Jay Pitner
Gray & Associates, L.L.P.
16345 West Glendale Drive
New Berlin, WI 53151-2841

Michael F. Dubis
Chapter 7 Trustee
208 East Main Street
Waterford, WI 53185

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

Dated this 13th day of October, 2015.

Gray & Associates, L.L.P.
Attorneys for Movant

By: /s/ Jay Pitner
Jay Pitner
State Bar No. 1010692

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AFFIDAVIT OF SERVICE

STATE OF WISCONSIN)
)ss
WAUKESHA COUNTY)

Stephanie E Weber, being first duly sworn on oath deposes and says that I am an employee of the firm of Gray & Associates, L.L.P., attorneys for creditor identified herein, and that on the 13th day of October, 2015, I electronically filed the annexed notice of motion and motion for an order for relief from the automatic stay and abandonment and that copies of these documents were mailed, properly enclosed in a postage paid envelope, or served electronically if the party accepts electronic service, to the following:

See Attached List

Dated this 13th day of October, 2015.

/s/ Stephanie E Weber
Stephanie E Weber, Bankruptcy Analyst

Subscribed and sworn to before me
this 13th day of October, 2015.

/s/ Deanna Wisner
Deanna Wisner, Notary Public
State of Wisconsin
My commission expires: 04/29/2018.

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